IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

WP(C).No. 2530 of 2007(A)

PETITIONER:

THE WESTERN INDIA COTTONS LTD.,
POST PAPPINISSERI, KANNUR DISTRICT,
REPRESENTED BY ITS CHAIRMAN.

BY ADV. SRI.U.K.RAMAKRISHNAN

RESPONDENTS:
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1. **THE DEPUTY COMMISSIONER (APPEALS)**
   COMMERCIAL TAXES, KOZHIKODE.

2. **THE ASSISTANT COMMISSIONER**
   (ASSESSMENT-I) SPECIAL CIRCLE, KANNUR.

3. **THE DISTRICT COLLECTOR, KANNUR.**

4. **STATE OF KERALA, REPRESENTED BY**
   THE CHIEF SECRETARY, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 2530 OF 2007-A

JUDGMENT

The petitioner attacks Ext.P12, which is an interim order, disposing of the stay petitions filed by it along with Exts.P3 and P4 appeals filed respectively against Exts.P1 and P2 assessment orders. According to the petitioner, there is substantial discrepancy in computing the taxable turnover. If the turnover was properly assessed, there will be no liability to pay any tax, under the KGST Act. Even when the worst is assumed, the liability may be only Rs.5 lakhs. The same is the case of CST assessment under Ext.P2 also. If the stock transfer to an agent outside the State is given credit, practically the CST liability will be wiped off and if not, it will come down to a few thousand rupees. Therefore, the petitioner prays for quashing Ext.P12.

2. I heard the learned Government Pleader for the respondents also. If I express any opinion on the merits of the case, the same is likely to prejudice one side or the other, at the time of final hearing of the appeals. But, having regard to the facts of the case and the principle of balance of convenience, if the petitioner pays Rs.6 lakhs within two weeks, further

coercive steps pursuant to Ext.P15 will remain in abeyance till Exts.P3 and P4 appeals are disposed of. The attachment of the immovables of the petitioner under Ext.P15 will remain in force till the appeals are disposed of. The 1st respondent is directed to pass final orders on the appeals as expeditiously as possible. It is made clear that I have not expressed any opinion on the merits of the contentions of both sides.

The Writ Petition is disposed of as above.

12th February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/